

REMARKS/ARGUMENTS

Claims 1-8 appear in the application and are present for examination. The Office Action mailed July 25, 2002 has been carefully reviewed. Claims 1-8 were variously rejected using Beach et al. (US Patent No. 6,222,872); hereinafter, "The Beach Patent," as the primary reference in each rejection. Applicants respectfully request reconsideration of this application in view of the enclosed Statement and the following remarks.

The Beach Patent

The Beach Patent is U. S. Patent No. 6,222,872 to Raymond J. Beach, Eric C. Honea, and Stephen A. Payne. The Beach Patent does not qualify as a prior art publication against the subject application because the subject application was filed December 29, 2000 and The Beach Patent did not issue until April 24, 2001. The Beach Patent and the subject application were co-pending during the nearly four months between December 29, 2000 and April 24, 2001. The Beach Patent and the subject application are commonly assigned to the Board of Regents of the University of California. The inventors Eric C. Honea and Raymond J. Beach in the subject application are the same persons as the inventors Raymond J. Beach and Eric C. Honea named in The Beach Patent.

### The Rejection of Claims 1, 5-7

In the Office Action mailed July 25, 2002, claims 1, 5-7 were rejected under 35 U.S.C. 102(e) as being anticipated by Beach et al. (US Patent No. 6,222,872). Enclosed with this response is a "Statement" by Applicants' attorney, Eddie E. Scott stating that the subject application and The Beach Patent reference (U. S. Patent No. 6,222,872) are commonly assigned to the Board of Regents of the University of California. The common assignment is also established by assignments filed in the United States Patent and Trademark Office showing that the subject application and The Beach Patent are commonly assigned to the Board of Regents of the University of California.

Applicants respectfully submit that, having established that the subject application and The Beach Patent reference are commonly owned, the rejection of claims 1, 5-7 has been overcome. Section 706.02(k) of the MPEP provides, "The rejection can be overcome by: (E) .... showing that the prior art and the claimed invention were, at the time the invention was made, owned by the same person ..."

### The Rejection of Claims 2 and 8

In the Office Action mailed July 25, 2002, claims 2 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over The Beach Patent reference in view of Connors (US Patent No. 6,115,396, further in view of Meissner et al. (US Patent No. 6,160,824).

Applicants respectfully submit that having established that The Beach Patent reference is not a valid reference against the subject application, the rejection of claims 2 and 8 has been overcome.

The Rejection of Claim 3

In the Office Action mailed July 25, 2002, claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over The Beach Patent reference in view of Connors (US Patent No. 6,115,396).

Applicants respectfully submit that having established that The Beach Patent reference is not a valid reference against the subject application, the rejection of claim 3 has been overcome.

The Rejection of Claim 4

In the Office Action mailed July 25, 2002, Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over The Beach Patent reference in view of Meissner et al. (US Patent No. 6,160,824).

Applicants respectfully submit that having established that The Beach Patent reference is not a valid reference against the subject application, the rejection of claim 4 has been overcome.

SUMMARY

The undersigned respectfully submits that, in view of the enclosed "Statement" and the foregoing remarks, the rejections of the claims raised in the Office Action dated July 25, 2002 have been fully addressed and overcome, and the present application is believed to be in condition for allowance. It is respectfully requested that this application

be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eddie E. Scott", written over a horizontal line.

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Dated: September 30, 2002